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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/601,725	06/23/2003	Peter A. Petrone	16467	8709
4859	7590	10/04/2004		
MACMILLAN SOBANSKI & TODD, LLC ONE MARITIME PLAZA FOURTH FLOOR 720 WATER STREET TOLEDO, OH 43604-1619				
			EXAMINER MULLER, BRYAN R	
			ART UNIT 3723	PAPER NUMBER

DATE MAILED: 10/04/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 10/601,725	Applicant(s) PETRONE ET AL. <i>cn</i>	
	Examiner Bryan R Muller	Art Unit 3723	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 June 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 June 2003 is/are: a) ☐ accepted or b) ☒ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>6/23/2003</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Drawings

1. The informal drawings (figures 7-9) are not of sufficient quality to permit examination. Accordingly, replacement drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to this Office action. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84(c)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant will be notified and informed of any required corrective action in the next Office action.

Applicant is given a TWO MONTH time period to submit new drawings in compliance with 37 CFR 1.81. Extensions of time may be obtained under the provisions of 37 CFR 1.136(a). Failure to timely submit replacement drawing sheets will result in ABANDONMENT of the application.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claim 8 is rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not

described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention.

The recitation of the invention appears to be inaccurate in lines 11-15 of page 11, the invention is not clearly described so that one of ordinary skill in the art would be able to reproduce the invention.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-4 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jesswein ('299) in view of Hamlin ('779).

6. Jesswein discloses a lift apparatus for supporting motorcycles and small vehicles comprising a ground engaging base frame (1) having a pair of spaced apart upwardly extending posts (7) and a pair of generally horizontally extending legs (2) with ground engaging roller assemblies attached to their outer ends, said legs each having an inner end adjacent one of said posts and an outer end, said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart, a pair of parallelogram linkages, each said linkage having an upper link, a lower link extending generally parallel to said upper link an outer link,

and an inner link formed by a portion of an associated one of said posts, said upper link being connected by first and second pivot means (each including an axle about which, at least one of said links pivots) to said inner and outer links respectively, said lower link being connected by third and fourth pivot means (each including an axle about which, at least one of said links pivots) to said inner and outer links respectively, a vehicle support means including a pair of spaced apart support arms attached to said outer links; and an manually actuated hydraulic actuator that acts as an actuator means having a lower end pivotally connected to said base frame and an upper end pivotally connected to said lower links whereby extension of said actuator means raises said vehicle support means between a lowered position for engaging and disengaging from a vehicle and a fully raised position. Jesswein, however, does not disclose that the second predetermined distance between leg outer ends is greater than said first predetermined distance between leg inner ends or that the base frame includes a pair of ground engaging caster assemblies. Hamlin discloses an automobile transmission handling jack that is formed to have a stable base (col. 1, lines 23-25) consisting of a base with a pair of generally horizontally extending legs, said legs each having an inner end and an outer end, said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart greater than said first predetermine distance. Hamlin also discloses that the base is caster-wheel-mounted for movability (col. 2, line 17). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to space the outer end of the legs in the invention of Jesswein further apart than the inner ends to increase stability of

the base structure. It also would have been obvious to replace the base mounted wheels of Jesswein with casters to increase the movability of the lifting apparatus.

7. Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jesswein ('299) and Hamlin ('779) as applied to claim 1 above and further in view of Butts ('203).

8. Jesswein and Hamlin disclose a lifting apparatus as discussed supra but fail to provide padding on the load supporting surface of the support arms. Butts discloses a jack for light aircraft and provides a resilient pad to the aircraft engaging portion of the jack to distribute loading on the aircraft surfaces and protect the aircraft from damage. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the load supporting surfaces of the support arms in Jesswein's invention to distribute loading and prevent damage to the motorcycle or small vehicle being lifted by the lifting apparatus.

9. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jesswein ('299) and Hamlin ('779) as applied to claim 1 above and further in view of Rishovd ('183).

10. Jesswein and Hamlin disclose a lifting apparatus as discussed supra but fail to provide handles attached to an upper end of each post. Rishovd discloses a vehicle jack with a main upright post that has a handle attached to either side near the top of the post. Rishovd teaches that the jack is wheeled into the proper lifting position relative to a vehicle by means of the handles mounted near the top of the cylinder (col. 3, lines 26-28). Therefore, it would have been obvious to one of ordinary skill in the art

at the time the invention was made to provide each of the posts in Jesswein's invention with handles in order for the invention to be properly positioned.

11. Claims 8-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson ('135) in view of McIntire ('632).

12. Robertson discloses a lift apparatus for supporting motorcycles and small vehicles comprising a ground engaging base frame having a generally horizontally extending central beam (6) with a generally vertically extending intermediate beam (6/7) attached at each end thereto, each said intermediate beam having an upper end with a generally horizontally extending end beam (7) attached thereto, a pair of spaced apart upwardly extending posts (1/2), a pair of parallelogram linkages, each said linkage having an upper link (2/5), a lower link (8/9) extending generally parallel to said upper link, an outer link (34), and an inner link (1/2) formed by a portion of an associated one of said posts, said upper link being connected by first (5) and second pivot (2) means (each including an axle about which, at least one of said links pivots) to said inner and outer links respectively, said lower link being connected by third (8) and fourth pivot (9) means (each including an axle about which, at least one of said links pivots) to said inner and outer links respectively; a vehicle support means (40), including a pair of spaced apart support arms, attached to said outer links (although Robertson does not disclose as a vehicle support means, 40 is capable of supporting a vehicle) and a hydraulic cylinder acting as an actuator means (26) having a lower end pivotally connected to said base frame whereby extension of said actuator means raises said vehicle support means between a lowered position for engaging and disengaging from a

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vehicle and a fully raised position. Robertson, however, does not disclose a pair of generally horizontally extending legs, said legs each having an inner end adjacent one of said posts and an outer end having a ground engaging roller assembly, said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart greater than said first predetermined distance. Robertson also fails to disclose that the upper end of the actuator means is pivotally connected to the lower links (Robertson shows actuator means connected to upper link), fails to disclose that the base frame includes a pair of ground engaging caster assemblies each attached to an outer end of an associated one of said end beams or that the actuator means is a manually actuated hydraulic cylinder. McIntire discloses a dolly that comprises a pair of generally horizontally extending legs (26 and 28), said legs each having an inner end adjacent one of said posts and an outer end having a ground engaging roller assembly (48 and 50), said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart greater than said first predetermined distance, a caster assembly attached to an outer end of an end beam (30), and a manually actuated hydraulic actuator (68) having a lower end pivotally connected to a base frame (18) and an upper end pivotally mounted to a lower link (54). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to replace the base of Robertson's invention with the ground engaging base of McIntire comprising a pair of generally horizontally extending legs said legs each having an inner end adjacent one of said posts and an outer end having a ground engaging roller

assembly, said leg inner ends being spaced a first predetermined distance apart and said leg outer ends being spaced a second predetermined distance apart greater than said first predetermined distance, a caster assembly attached to an outer end of an end beam (30) and a pair of caster assemblies to the end beam of Robertson in order to make Robertson's invention more stable through the diverging leg arrangement and allow for the support to more easily be repositioned (due to the caster and roller assemblies) over the object to be lifted without the legs interfering. The ability to reposition the lifting apparatus makes the invention more useful and versatile. It would also be obvious to make Robertson's hydraulic actuator manually actuated to avoid the need for additional machinery to provide power and controls for the lifting apparatus, again making the invention useful and versatile. Finally, it would be obvious to pivotally connect the hydraulic actuator to the lower end link of the apparatus instead of the upper link. This modification would allow for a shorter hydraulic actuator, which would be less expensive to purchase or produce, and the modification would not change the desired motion of the moving links.

13. Claim 13 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson ('135) and McIntire ('632) as applied to claim 8 above and further in view of Butts ('203).

14. Robertson and McIntire disclose a lifting apparatus as discussed supra but fail to provide padding on the load supporting surface of the support arms. Butts discloses a jack for light aircraft and provides a resilient pad to the aircraft engaging portion of the jack to distribute loading on the aircraft surfaces and protect the aircraft from damage.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide the load supporting surfaces of the support arms in Robertson's invention to distribute loading and prevent damage to the motorcycle or small vehicle being lifted by the lifting apparatus.

15. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Robertson ('135) and McIntire ('632) as applied to claim 8 above and further in view of Rishovd ('183).

16. Robertson and McIntire disclose a lifting apparatus as discussed supra but fail to provide handles attached to an upper end of each post. Rishovd discloses a vehicle jack with a main upright post that has a handle attached to either side near the top of the post. Rishovd teaches that the jack is wheeled into the proper lifting position relative to a vehicle by means of the handles mounted near the top of the cylinder (col. 3, lines 26-28). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to provide each of the posts in Robertson and McIntire's invention with handles in order for the invention to be properly positioned.

Conclusion

17. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Biburger (DE 3723455 A1), Dugan ('999) and Anderson et al.

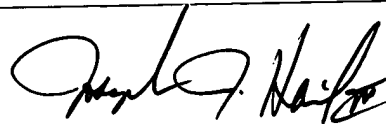
('749) all discloses portable lift assemblies that possess similar parallel linkage and support base assembly to the applicants invention.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan R Muller whose telephone number is (703)305-0487. The examiner can normally be reached on M-F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph J Hail III can be reached on (703)308-2687. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BRM BRM
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